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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/761,176	01/20/2004	Kazuhiko Morimoto	Saigoh C-307	2075
23474	7590	08/19/2005	EXAMINER	
FLYNN THIEL BOUTELL & TANIS, P.C. 2026 RAMBLING ROAD KALAMAZOO, MI 49008-1631			COLLADO, CYNTHIA FRANCISCA	
			ART UNIT	PAPER NUMBER
			3618	

DATE MAILED: 08/19/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 10/761,176	<b>Applicant(s)</b> MORIMOTO ET AL.	
	<b>Examiner</b> Cynthia F. Collado	<b>Art Unit</b> 3618	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
  - If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
  - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
  - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 21 January 2003.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-6 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-6 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 21 January 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☒ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>1/21/2003</u> . | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 103***

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

3. Claims 1-6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wakashiro Teruo (JP No 11343894 A).

4. The Wakashiro Teruo reference teaches an automatic stop/start controller for a vehicle which automatically stops and starts a vehicle engine without operation of an ignition key (see column 0093). Wakashiro Teruo teaches a control unit preventing the automatic stop of an engine if a direction indicator of the vehicle is activated (see Basic-abstract of invention, lines 1-7), control unit automatically restarts engine without operation of the ignition key if direction indicator is activated after engine is automatically stopped (see Basic-abstract of invention, lines 3-9), also (see advantage of the invention, lines 1-7), Wakashiro Teruo reference does not mention the control unit

Art Unit: 3618

prevents an automatic stop of the engine until a predetermined distance is traveled however the Wakashiro Teruo reference does teach a control unit preventing an automatic stop of the engine until a vehicle speed is greater than a predetermined automatic stop prohibit speed (see paragraph 0043). It would have been obvious to one having ordinary skill in the art at the time of the invention to substitute a method for determining speed of the vehicle distance speed due to their equivalence.

Regarding to claims 2 and 4, the modification of the Kuzihiko Morimoto reference whereby distance is used as the parameter for determining when the control unit stops the automatic stopping of the engine, as opposed to using the vehicle speed as the parameter was set forth above in relation to claim 1. For example, using distance, the Wakashiro Teruo would first set the before stop distance parameter to 0 meters, which would be the same as setting the speed of the vehicle to 0 km/hr, if velocity was used. Then the automatic stop prohibit distance parameter would be set to 15 meters (which is greater than 0 meters) as long as the distance parameter is less than the second predetermined distance parameter, the control unit would continue to prohibit the stop/start of the engine. This method provides the same equivalent result in determining that the vehicle is no longer sitting at a traffic light/stop sign, and resumed normal travel.

Regarding to claim 3, Wakashiro Teruo teaches a motor generator-assisting engine in generating power (see figure 4, elements M and E).

Regarding claims 5 and 6, Wakashiro Teruo teaches an internal combustion engine (see figure 4, element E), an electric motor generator drivingly connected to engine to assist in driving of engine when functioning as a motor (see figure 4, elements

Art Unit: 3618

M and E), a transmission drivingly of said engine to vehicle wheels (see figure 4, elements Ta and Wf), a direction indicator movable from an inactive state to an active state for selectively indicating a turning direction of the vehicle (see the basic abstract section of invention), determining conditions for an automatic stop of the engine are satisfied by sensing at least a shift lever position, a brake pedal position, and an idle switch position (see paragraph 0090 and 0091), a stop-start controller restarting a stopped engine upon activation of direction indicator into an active state in which prevents a running engine from being automatically stopped whenever direction indicator in active state (see the basic abstract section of invention along with the advantage of the invention), a stop start controller that selectively and automatically stops and starts said engine without use of an ignition key (see column 0093) also see (see Basic-abstract of invention, lines 1-7), and a controller preventing an engine that has been automatically started from being automatically stopped unless the vehicle travels a predetermined distance.

The modification of the Kuzihiko Morimoto reference whereby distance is used as the parameter for determining when the controller stops the automatic stopping of the engine, as opposed to using the vehicle speed as the parameter was set forth above in relation to claim 1. For example, using distance, the Wakashiro Teruo would first set the before stop distance parameter to 0 meters, which would be the same as setting the speed of the vehicle to 0km/hr if velocity was used. Then the automatic stop predetermined distance would be set to 15 km/h (which is greater than meters). As long as the distance parameter is less than the second predetermined distance parameter,

Art Unit: 3618

the control unit would continue to prohibit the stop/start of the engine. This method provides the same equivalent result in determining that the vehicle is no longer sitting at a traffic light/stop sign, and resumed normal travel.

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Engine control apparatus of vehicle with transmission, has engine output control unit to stoppage and subsequent restart of engine, when indicator is switched ON and OFF

Issued to Wakashiro Teruo (JP No 11343894 A).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Cynthia F. Collado whose telephone number is (571)2728315. The examiner can normally be reached on mon-fri 8-4.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chris Ellis can be reached on (571)2726914. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

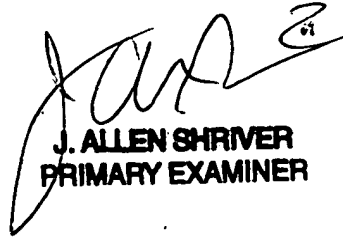
Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Application/Control Number: 10/761,176

Page 6

Art Unit: 3618

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J. ALLEN SHRIVER  
PRIMARY EXAMINER